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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4121 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

B R VALMIKI

Appearance:

1. Special Civil Application No. 4121 of 2002

MRS VASAVDATTA BHATT for Petitioner No. 1

..... for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 16/04/2002

ORAL JUDGEMENT

#. Heard Ms.Vasavadatta Bhatt, learned advocate appearing on behalf of the petitioner Corporation.

#. The petitioner Corporation has challenged the award passed by the Industrial Tribunal, Nadiad in

Reference [IT] No.18 / 1998 dated 22nd June, 2001 wherein the the tribunal has set aside the order of punishment dated 4th February, 1997.

#. Learned advocate Ms.Vasavadatta Bhatt for petitioner has submitted that the tribunal has committed gross error in reappreciating the oral evidence in departmental inquiry. She has also submitted that the tribunal has committed gross error in considering the fact that charge levelled against the respondent workman is not found to have proved. Ms.Bhatt, learned advocate has submitted that the tribunal has ignored the past record of the respondent workman and therefore, the tribunal has committed error in setting aside the punishment order passed by the Corporation.

#. I have considered submissions of the learned advocate Ms.Vasavdatta Bhatt for petitioner Corporation. The tribunal has considered the evidence on record which were led in the departmental inquiry. The legality and validity of the departmental inquiry was not challenged by the respondent workman before the tribunal but finding was challenged. The tribunal has considered the accident in question occurred on 5th March, 1995 to that effect that the vehicle involved in said accident bearing registration No. GRU - 9725 was repaired by the respondent workman which was on route Khambhat to Virpur and the break of this bus failed down at Balasinore and therefore, serious accident taken place which ultimately caused heavy financial loss to the petitioner Corporation. On the basis of the said incident, vide Exh.11 report was submitted by the Head Mechanic against the respondent workman who was working as Art [C] Mechanic. Thereafter, on 14th March, 1995 the respondent workman has submitted reply and pointed out to the Depot Manager that the bus was not maintained by the respondent workman. Thereafter, vide Exh.14 the respondent workman was examined in the departmental inquiry but he was not willing to cross examine the reporter and Head Mechanic and reply was given to the questionnaires to the competent authority. The allegation against the respondent workman is that because of negligence in maintenance work not carried out properly, the accident occurred and on account of said accident, heavy financial loss caused to the petitioner Corporation. However, it is noted that a pertinent question was asked to the respondent workman by the competent authority that whether maintenance work of the vehicle in question was carried out by the respondent workman on 5th March, 1995 but the answer to this question given by the workman is, he is not aware of this fact. Thereafter, answer was

given that he has completed the maintenance work in the said vehicle. However, the workman has given further reply that according to the instructions given by the Head Mechanic, he has carried out maintenance work in the said vehicle. However, the workman has clearly admitted that he is not regularly discharging the duties of maintenance work but because on that date, concerned employee who was working in the maintenance division was on leave and therefore on that day, his duty was fixed on maintenance work. Therefore, he has completed that work in the said bus. The tribunal has considered that the corporation has not produced any documentary evidence before the departmental authority. In departmental inquiry, answer was given that he was not aware of the maintenance work of the bus in question and therefore, it required to be proved by the reporter before the departmental authority. But the tribunal has considered that looking to the record of the departmental inquiry, maintenance work was carried out by the respondent workman but the tribunal has considered important aspect that it is also duty of the Mechanic as well as Head Mechanic to verify and check whether the maintenance work carried out by the Assistant Mechanic is properly done or not and once the work was not checked and properly verified and if any accident occurred subsequently, for that, the respondent workman cannot be held to be responsible. The tribunal has considered one more important aspect that after maintenance work carried out in the said bus, the vehicle in question was driven for 120 kms. and thereafter, all of sudden, this accident has occurred on account of failure of break. Therefore, initial work which was carried out by the respondent workman, if at all presumed, then it cannot be considered that because of negligence on the part of the respondent workman said accident had occurred. Therefore, considering all the evidence on record, the tribunal has come to the conclusion that there is no evidence on record which proved negligence on the part of the respondent that while maintenance work is carried out in the vehicle, it was not carried out properly. Therefore, the tribunal has set aside the punishment order.

#. In above view of the matter, according to my opinion, the tribunal has given cogent reasons in support of its conclusion and as such, there seems no error of jurisdiction or no procedural irregularity committed by the tribunal which apparently found from the face of the record and therefore, no interference of this Court is called for under Article 226 and 227 of the Constitution. Therefore, there is no substance in this petition which requires rejection at the threshold and the same is

rejected accordingly.

Date : 16-4-2002 [H.K.Rathod, J.]

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